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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/535,247	12/14/2005	Hirokazu Ooe	2936-0241PUS1	5978
2292 7590 04/07/2010 BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747				
EXAMINER				
CORMIER, DAVID G				
ART UNIT		PAPER NUMBER		
1711				
NOTIFICATION DATE		DELIVERY MODE		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

Office Action Summary

Application No.

10/535,247

Applicant(s)

OOE ET AL.

Examiner

DAVID CORMIER

Art Unit

1711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 January 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 4, 5, 7, 8, 10, 16 and 17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 4, 5, 7, 8, 10, 16 and 17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB06)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendments/Arguments

1. This Office action is responsive to the amendment filed on January 08, 2010. Claims 1, 4, 5, 7, 8, 10, 16 and 17 are pending. Claims 1, 8 and 17 have been amended.
2. The objection to Claim 17 is withdrawn in response to Applicant's amendments.
3. The rejections of Claims 1, 4, 5, 7, 8, 10, 16 and 17 under 35 U.S.C. 103(a) as being unpatentable over Hashimoto (US 5,743,115), in view of Ando et al. (JP 2001-276484), and further in view of Spriggs et al. (US 5,873,268) has been withdrawn in response to Applicant's amendments. However, the Examiner believes the claims still read on the combination of Hashimoto, in view of Ando, and further in view of Spriggs.
4. Applicant argues that none of the references discloses a "time measuring portion for measuring time of duration of each period of a predetermined process in a laundry washing session," as in Claim 1, or a "detecting portion detecting whether the metal ions have been added to the water in final rinsing before a squeezing process," as in Claims 8 and 17. As claimed neither a "time measuring portion" nor a "detecting portion" is construed as necessarily limiting the structure of the apparatus. As support for these amendments, Applicant points to page 33, lines 2-6 and Figure 14. These elements also appear to be implied in the previous claim set of September 09, 2009. The Examiner finds no support for construing these elements as anything other than a

recitation of the functional capability of a controller; therefore, both elements will be broadly and reasonably construed as being merely functional capabilities of a controller.

5. Applicant also argues that none of the references discloses an "informing portion giving an indication and/or notification that water having no metal ions added thereto is being supplied to the washing tub," as in Claim 17. Hashimoto discloses numerous indicators (see Figure 2), any of which can be used as claimed. The claimed intended use must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art.

6. A new ground of rejection to address the new limitations is made below.

Claim Rejections - 35 USC § 103

7. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

8. **Claims 1, 4, 5, 7, 8, 10, 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hashimoto (US 5,743,115) in view of Ando et al. (JP 2001-276484) and Spriggs et al. (US 5,873,268).**

9. Claims 1, 4, 5, 7 and 16 require a washer having the following structure: a washing tub; a metal ion adding portion; a treatment substance adding portion; a water flow controlling portion; and a control unit that controls the metal ion adding portion; the treatment substance adding portion; the water flow controlling portion; and an agitator (which is implied by the swirl periods). Claims 8, 10 and 17 require a washer having: a washing tub; a metal ion adding portion; an unbalance detecting portion; an unbalance

correcting portion that corrects imbalance by agitating inside the washing tub; and a control unit. Additionally, Claim 17 requires the structure of an informing portion.

10. Regarding Claims 1, 4, 5, 7 and 16, Hashimoto discloses a washing machine comprising: a washing tub (4); a water flow controlling portion (water supply system, 22, water guide, 19, and water supply valve, 21); and a control unit that controls all aspects of washing (26; col. 5, line 26-52); and an agitator (5). Hashimoto further implicitly discloses a time measuring portion for measuring duration (see col. 5, lines 5-25; Figures 4a, 4b, 4c, and 5)

11. Hashimoto does not expressly disclose a metal ion adding portion and a control unit that controls it.

12. Ando discloses a metal ion adding portion (B), which is added to a rinsing cycle such that particles adhere to clothing and impart an antibacterial effect to the clothing (machine translation paragraphs 4 and 5). The metal ion adding portion is also controlled by a control unit (240; machine translation paragraphs 23-35).

13. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Hashimoto, as taught by Ando, and to have a computer controlled metal ion adding portion to supply metal ions to the laundry. One would have been motivated to do so in order to produce the beneficial, and predictable, result of sterilizing clothing.

14. Hashimoto in view of Ando does not expressly disclose a treatment substance adding portion and a control unit for controlling it.

15. Spriggs discloses a washing machine (106) with a treatment substance dispenser (100) and a controller (202) for controlling the treatment substance dispensing system (Figure 11).

16. Because it is known in the art to have a computer controlled treatment substance adding portion, and the results of the modification would be predictable, namely, an effective way of dispensing detergents, softeners and bleaches, it would have been obvious to one of ordinary skill in the art at the time of the invention to have a computer controlled treatment substance dispenser.

17. The further limitations of Claims 1, 4, 5, 7 and 16 are considered to be intended use of the washing machine as taught by Hashimoto in view of Ando and Spriggs and are not further limiting in so far as the structure of the apparatus is concerned. The claimed intended use must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. For example, the apparatus of Hashimoto in view of Ando and Spriggs is capable of adding metal ions to water and having mild and powerful swirl periods.

18. Note that for controller limitations to be given patentable weight, those limitations must recite that the controller is "configured to" or "programmed to" perform those tasks which are to be given patentable weight. Merely reciting how the controller will be used is considered to be intended use of the controller.

19. Claims 8, 10 and 17 are considered to be taught by Hashimoto in view of Ando and Spriggs as applied above. Regarding Claims 8 and 10, Hashimoto discloses an unbalance detecting portion (29) and an unbalance correcting portion (reads on the

agitator, 5). Regarding Claim 17, Hashimoto discloses numerous indicators (see Figure 2), any of which can be used as claimed. Nevertheless, it would have also been obvious to one of ordinary skill in the art to add extra indicators to alert a user of various machine states. The further limitations of Claims 8, 10 and 17 are considered to be intended use of the washing machine as taught by Hashimoto in view of Ando and Spriggs and are not further limiting in so far as the structure of the apparatus is concerned.

20. Further regarding Claims 8 and 17, the detecting portion detecting whether metal ions have been added to the water appears to be a functional capability of the controller. Applicant points to Figure 14 as support for this limitation, and it appears that this flowchart does not contain any explicit structure for a detecting portion. It appears to be some functional ability of a controller, such as an if-then-else loop (see Figure 14) which a programmable general purpose computer would be capable of performing. If it is determined that Hashimoto does not disclose a computer capable of performing this task, then the Examiner considers it to be obvious to modify Hashimoto to have a programmable general purpose computer because they are extremely well known in the art, and would yield the predictable results of giving greater control over the machine. As noted above, the controller must recite that it is "configured to" or "programmed to" perform a specific function in order to give that function patentable weight.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **DAVID CORMIER** whose telephone number is (571) 270-7386. The examiner can normally be reached on Monday - Thursday 8:30 - 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Barr can be reached on (571) 272-1414. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael Barr/
Supervisory Patent Examiner, Art
Unit 1711

/DGC/
David Cormier
03/31/2010